

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON**

**ANTHONY BAISDEN,**

**Plaintiff,**

**v.**

**Case No. 2:11-cv-00830**

**SERGEANT R.D. ARTHUR, an employee  
of the West Virginia State Police, and  
SERGEANT J.L. PHILLIPS, an employee  
of the West Virginia State Police,**

**PROPOSED FINDINGS AND RECOMMENDATION**

On June 1, 2012, the plaintiff failed to appear in court for a hearing on his attorney's Motion to Withdraw, which Motion was granted. In the Order granting the Motion, the court notified the plaintiff that failure to comply with the court's schedule of events could result in the dismissal of the case for failure to prosecute. The plaintiff failed to obey the Order entered July 27, 2012 by the undersigned, which required him to contact chambers by telephone.

Pending before the court is the defendants' Motion to Dismiss for Failure to Prosecute (ECF No. 40). By Order entered August 10, 2012, the plaintiff was directed to file his response to the Motion by August 20, 2012. The plaintiff was warned that his failure to respond would result in the filing of Proposed Findings and Recommendation that this case be dismissed without prejudice. The plaintiff has neither filed a response nor contacted chambers. It appears that the plaintiff does not wish to prosecute this civil action. Accordingly the undersigned proposes that the presiding District Judge **FIND** that the plaintiff has failed to prosecute this action. It is respectfully

**RECOMMENDED** that the defendants' Motion to Dismiss for Failure to Prosecute be granted and that this civil action be dismissed without prejudice for failure to prosecute.

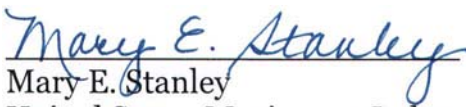
**Notice**

The parties are notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the Honorable John T. Copenhaver, Jr., United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(d) and 72(b), Federal Rules of Civil Procedure, the parties shall have fourteen days (filing of objections) and three days (mailing) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be provided to Judge Copenhaver.

The Clerk is directed to file this Proposed Findings and Recommendation, to mail a copy to the plaintiff, and to transmit it electronically to counsel of record.

August 21, 2012

  
Mary E. Stanley  
United States Magistrate Judge